

## **REMARKS**

### **Claim status**

Claims 1-3, 6-11, and 17-18, 21-22, and 25-26 were pending in the case at the time of the current Office Action. Claims 5, 14-16, 19-20, and 23-24 were previously cancelled. Claims 1-2, 6-8, 10, 17-18, 212-22, and 25-26 are currently amended herein. Claims 1-3, 6-11, 17-18, 21-22, and 25-26 are currently pending in the application.

### **Priority Documents**

In the current Office action, the Examiner has indicated that none of the certified copies of the priority documents have been received.

Applicants respectfully disagree and submit that the priority document was filed on July 2, 2004. The transmittal for the priority document is in the Image File Wrapper and the artifact sheet indicates that the FRPR (foreign priority document) is there also.

Applicants respectfully request that the Examiner double check the Image File Wrapper for this evidence of submission of the priority document.

### **Section 112 rejections**

In the current Office action, claims 1-2, 6-8, 10, 17-18, 21-22, 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Applicants respectfully traverse the foregoing rejections in view of the above pending claims and for reasons set forth hereafter.

Applicants have amended claims 1-2, 6-8, 10, 17-18, 21-22, 25 and 26 in an attempt to overcome all of the 35 U.S.C. 112, second paragraph, rejections.

Applicants respectfully submit that the rejections have been overcome and request that the rejections under 35 U.S.C. 112, second paragraph, be removed.

### **Section 102 rejections**

In the current Office action, claims 1-3, 6-11, 17-18, 21-22 and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Alt (U.S. Patent 5,403,355), hereinafter Alt.

Applicants respectfully traverse the foregoing rejections in view of the above pending claims and for reasons set forth hereafter.

Independent claim 1 recites a cardiac pacemaker arrangement comprising:

- at least one floating atrial electrode;
- an atrial wall electrode; and
- at least one circuit adapted to:

- evaluate atrial signals perceived by said electrodes, and
  - switch over from a first mode, for effecting atrial myocardium stimulation by said atrial wall electrode, to a second mode, for effecting atrial myocardium stimulation by said at least one floating atrial electrode, upon perceiving atrial signals that are evaluated as being high-frequency irregularities such as auricular fibrillation or atrial tachycardias as on the basis of inadmissibly high signal frequencies.

Independent claim 8 recites a method of controlling a cardiac pacemaker, said method comprising:

- perceiving atrial signals by an atrial wall electrode and/or an atrial floating electrode arranged in an atrium of a heart;

- evaluating said perceived atrial signals in a circuit of the cardiac pacemaker; and

- said circuit switching over from a first mode, for triggering stimulation of a myocardium of the heart by said atrial wall electrode, to a second mode, for triggering stimulation of said myocardium of the heart by said atrial floating electrode, when said evaluated atrial signals include high-frequency irregularities due to tachycardias or auricular fibrillation.

It is respectfully submitted that Alt does not teach or suggest the claimed invention of independent claim 1 or independent claim 8. In particular, Alt does not teach or suggest two different modes of stimulation. That is, Alt does not teach or suggest switching over from a first mode, for triggering stimulation of a myocardium of the heart by an atrial wall electrode, to a second mode, for triggering stimulation of the myocardium of the heart by an atrial floating electrode.

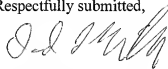
Instead, Alt describes only one mode of atrial stimulation. At the bottom of page 5 of the current Office action, the Examiner states that Alt discloses a first mode **which is a sensing mode** and a second mode which is a stimulation mode. That is, Alt describes only one mode of stimulation.

Furthermore, both the floating electrode and the wall electrode of the claimed invention of claims 1 and 8 of the present application are atrial electrodes. However, Alt does not teach or suggest an **atrial** wall electrode.

Therefore, in view of at least the foregoing, it is respectfully submitted that independent claim 1 and independent claim 8 are not anticipated by Alt, and it is respectfully submitted that independent claim 1 and independent claim 8 define allowable subject matter. Also, since claims 2-3, 6-7, 9-11, 17-18, 21-22, and 25-26 depend either directly or indirectly from claim 1 or claim 8, it is respectfully submitted that claims 2-3, 6-7, 9-11, 17-18, 21-22, and 25-26 define allowable subject matter as well. Applicant respectfully requests that the rejection of claims 1-3, 6-11, 17-18, 21-22 and 25-26 under 35 U.S.C. 102(b) be removed.

Accordingly, the applicant respectfully requests reconsideration of the rejections and objections based on at least the foregoing. After such reconsideration, it is urged that allowance of all pending claims will be in order.

Respectfully submitted,



David J. Muzilla  
Registration No. 50,914

Hahn Loeser & Parks LLP  
One GOJO Plaza  
Suite 300  
Akron, OH 44311-1076  
(330) 864-5550  
Fax 330-864-7986  
djmuzilla@hahnlaw.com

**CUSTOMER No. 021324**